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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|--------------------------------|---------------------|------------------|
| 09/254,623 | 07/08/1999 | ELIZABETH SHANAHAN-PRENDERGAST | 8009-7004-US | 7303 |

7590 11/20/2003

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| EXAMINER |
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DAVIS, MINH TAM B

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| ART UNIT | PAPER NUMBER |
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1642

DATE MAILED: 11/20/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.



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| APPLICATION NO./ CONTROL NO. | FILING DATE | FIRST NAMED INVENTOR / PATENT IN REEXAMINATION | ATTORNEY DOCKET NO. |
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Commissioner for Patents

SEE ATTACHED.

DETAILED ACTION

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Applicant cancels claims 44, 46

Applicant amends claims 5, 43, 47 to be drawn to a method for preventing neoplastic development, comprising administering **venom** and at least one adjuvant.

The amended claims 5, 43, 47 are directed to a method for a method for preventing neoplastic development, comprising administering **venom** and at least one adjuvant, which is a distinct method which differs at least in method steps, reagents used, response variables, and criteria for success from the method of group V originally presented in paper No:16, which is directed to a method for a method for preventing neoplastic development, comprising administering **phospholipase A2**. It is noted that a method for a method for preventing neoplastic development, comprising administering **venom** belongs to the original group IV (see restriction requirement of paper No:14 on 12/19/00, page 3). Further, although in the restriction requirement, the original group V comprises claim 45, the first Office action of merit of paper No:17, on 08/01/01, page 4, lines 5-8, clearly states that claim 45 is not examined, because it is drawn to a method for preventing cancer, using venom, which is not the same as phospholipase A2 alone or with adjuvants.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 5, 43, 47 are withdrawn from

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consideration as being directed to a non-elected invention. See 37 C.F.R. § 1.142(b) and M.P.E.P. § 821.03.

The amendment filed on 08/26/03 amending the claims 5, 43, 47, all directed to an invention not originally presented is nonresponsive (see MPEP 821.03). The amended claims 5, 43, 47 are not readable on the originally presented invention for the reasons set forth above. Applicant is given a ONE MONTH time limit or until the expiration of the response period set in the last Office action, whichever is longer, to complete the response. NO EXTENSION OF THIS TIME LIMIT WILL BE GRANTED UNDER EITHER 37 CAR 1.136(a) OR (b) but the period for response set in the last office action may be extended up to a maximum of SIX MONTHS.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MINH-TAM DAVIS whose telephone number is 703-305-2008. The examiner can normally be reached on 9:30AM-4:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, ANTHONY CAPUTA can be reached on 703-308-3995. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9306 for regular communications and 703-872-9307 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0916.

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A handwritten signature in black ink, appearing to read 'Minh Tam Davis'.

MINH TAM DAVIS

PATENT EXAMINER

November 14, 2003